

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of Kinder Morgan) Application No. NG-0027
Retail Energy Services Company,)
seeking authority, and to)
include Temporary Authority, as) AUTHORITY GRANTED
a Competitive Natural Gas)
Provider in the state of)
Nebraska.) Entered: March 29, 2005

BY THE COMMISSION:

By application filed February 22, 2005, Kinder Morgan Retail Energy Services Company (KMRES or applicant), Lakewood, Colorado, seeks authority as a competitive natural gas provider (CNGP) in the state of Nebraska. Notice of the application was published in the Daily Record, Omaha, Nebraska, on February 23, 2005.

Applicant further seeks temporary authority as a CNGP, as requested by same application filed February 22, 2005. Notice of the application for temporary authority was published in the Daily Record on February 23, 2005. On March 18, 2005, counsel for the applicant notified the Commission that temporary authority would no longer be required.

The deadline for protests or interventions to be filed was on or before March 24, 2005. A timely petition for informal intervention was filed by Cornerstone Energy on March 3, 2005. Because no protests were filed, the Commission may process this application by modified procedure, pursuant to the Commission Rules of Procedure, 291 Neb. Admin. Code, Ch. 1, Rule 018.03.

O P I N I O N A N D F I N D I N G S

The Commission finds that it has jurisdiction pursuant to Neb. Rev. Stat. §§ 66-1848 to 66-1849 (2003 Supp.). Section 66-1849 provides in part:

The commission shall certify all competitive natural gas providers and aggregators providing natural gas services. In an application for certification, a competitive natural gas provider or aggregator shall reasonably demonstrate managerial, technical, and financial capability sufficient to obtain and deliver the services such provider or aggregator proposes to offer. The commission may establish reasonable conditions or restrictions on the certificate at the time of issuance.

In addition, Commission rules and regulations specify requirements for an application for authority as a CNGP. See, 291 Neb Admin. Code, Ch. 9, Rule 009.

In support of its application, KMRES indicated that it is a wholly-owned subsidiary of Kinder Morgan, Inc. (Kinder Morgan), a jurisdictional utility under the State Natural Gas Regulation Act. KMRES asserts in its application that its operations as a market/broker are so recent, financial statements applicable to these operations are not available; however, its financial undertakings have been guaranteed by Kinder Morgan, Inc. KMRES submitted a copy of Kinder Morgan's filings with the Securities and Exchange Commission on Form 10-K (for calendar 2003) and on form 10-Q (for the quarter ending June 2004). KMRES has not had any legal action or formal complaints pertaining to the provision of competitive natural gas services filed against the company or its affiliates at any public utility regulatory body, including the Commission within the twelve months prior to filing this application.

In addition, KMRES submitted the biographies of the members of its management team: Thomas Matthews, James A. Miller and Laura J. Leyda. The biographies submitted by affidavit detailed the educational and professional background of each individual.

Commission Staff Accountant Steve Stovall submitted an affidavit attesting that the financial statements submitted provide evidence of adequate financial resources necessary to obtain and deliver the services the Applicant proposes to offer.

The Commission acknowledges the relationship between Kinder Morgan, which is a jurisdictional utility, and KMRES. The Commission currently has a rulemaking docket open, Rule and Regulation No. 157A, which includes revisions to affiliate rules. Should a rule that encompasses the relationship between Kinder Morgan and KMRES ultimately be adopted, the Commission clarifies that the timing of the granting of CNGP status to KMRES does not impact the applicability of the final rules to the relationship between Kinder Morgan and KMRES.

Based upon the information provided in the application and by affidavit, the Commission finds that Kinder Morgan's application for authority should be granted, and that Kinder Morgan should be issued a certificate of authority as a competitive natural gas provider consistent with the conditions set forth in this order.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the application for authority is hereby, granted.

IT IS FURTHER ORDERED that this order be, and it is hereby made, the Commission's official certificate of authority to furnish the service authorized herein as a competitive natural gas provider.

MADE AND ENTERED at Lincoln, Nebraska, this 29th day of March, 2005.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chairman

ATTEST:

Executive Director